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AD HOC GROUP ON ARTICLE 13
First session
Geneva, 30 - 31 October 1995
Item 2 (a) of the provisional agenda

PROVISIONAL AGENDA AND ANNOTATIONS

Note by the secretariat

I. INTRODUCTION

1. The Conference of the Parties at its first session (COP 1), by its decision 20/CP.1 (FCCC/CP/1995/7/Add.1), established an "ad hoc open-ended working group of technical and legal experts to study all issues relating to the establishment of a multilateral consultative process and its design" and requested that group "to report its findings to the Conference of the Parties at its second session." This decision recalled Article 13 of the United Nations Framework Convention on Climate Change, which provides that the Conference of the Parties "shall, at its first session, consider the establishment of a multilateral consultative process, available to Parties on their request, for the resolution of questions regarding the implementation of the Convention."

2. In consultation with the Bureau, arrangements have been made to convene the first session of the Ad Hoc Group on Article 13 (hereinafter referred to as "the AG13") at the Palais des Nations, Geneva, from 30 to 31 October 1995. The session will be opened by the Executive Secretary at 10 a.m. on 30 October in conference room XXIII.

II. PROVISIONAL AGENDA

3. The provisional agenda for the first session of the AG13, proposed after consultation with the Bureau of the COP, is as follows:

1. Opening of the session.

2. Organizational matters:

   (a) Adoption of the agenda;
   (b) Organization of work of the session.

3. Election of officers other than the Chairman.

4. Programme of work during the session:

   (a) Preliminary exchange of views on the issues arising under Article 13;
   (b) Review of documentation;
   (c) Review of similar mechanisms.

5. Future work of the AG13.

6. Report on the session.

III. ANNOTATIONS TO THE PROVISIONAL AGENDA

1. Opening of the session

4. At the final meeting of COP 1, the President stated that she would undertake consultations on the designation of the Chairman of the AG13 (FCCC/CP/1995/7, para. 20). As a result of the subsequent consultations, including those with the Bureau, the President has designated Mr. Patrick Szell (United Kingdom) as Chairman. The Group will be invited to confirm this designation.

2. Organizational matters

(a) Adoption of the agenda

5. The provisional agenda of the first session of the AG13 is presented for adoption. It focuses on arrangements for the organization of the work of the Group which will enable it to consider the establishment and design of a multilateral consultative process.

(b) Organization of the work of the session

(i) Documentation

6. The present document will serve as the main guide to the organizational issues before the session. Relevant background documentation is listed in the annotation to item 4 (b) below.

(ii) Participation and meeting facilities

7. It is expected that participation in the AG13 will consist essentially of technical and legal experts designated in advance by Parties wishing to contribute to the work of the Group. Meeting facilities will be arranged to enable the Group to benefit from a less formal working environment.

(iii) Schedule

8. The scheduling of meetings for the session will be based on the availability of facilities during normal working hours, when services are available for one meeting with interpretation from 10 a.m. to 1 p.m. and one meeting from 3 p.m. to 6 p.m. There will also be some facilities for informal meetings without interpretation. Delegations are urged to use these facilities fully by starting all meetings promptly at the scheduled time. Please note that the Ad Hoc Group on the Berlin Mandate (AGBM) will meet concurrently.

3. Election of officers other than the Chairman

9. The Group will need to elect a Vice-Chairman and a Rapporteur in accordance with rule 27, paragraph 5, of the draft rules of procedure, as currently applied by the COP and its subsidiary bodies. The Chairman of the AG13 may wish to conduct informal consultations on the election of the Vice-Chairman and the Rapporteur immediately after the closure of the 1st meeting.

4. Programme of work during the session

(a) Preliminary exchange of views on the issues arising under Article 13

10. As many experts will be addressing issues relating to Article 13 in depth for the first time since the adoption of the Convention, an initial exchange of views may be timely. Experts may wish to indicate their preliminary views concerning, inter alia, the following questions:

(a) What is understood by a multilateral consultative process and what type of questions would it address?

(b) What is the relationship of Article 13 to the communications and review process established pursuant to Article 12 of the Convention, including the in-depth reviews and the reports thereon?

(c) What is the relationship of Article 13 to the Subsidiary Body for Implementation? (See Article 10 and decision 6/CP.1.)

(d) What is the relationship of Article 13 to the dispute settlement provisions established in Article 14 of the Convention?

(e) What timing considerations should be taken into account in establishing a process pursuant to Article 13, in the light of the work of the AGBM and its timetable?

(b) Review of documentation

11. The AG13 may wish to draw upon relevant documentation and, if time allows, consider some specific documentation. Such background documentation includes:

- Selected draft articles from the report of the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change on the work of the first part of its fifth session, held at New York from 18 to 28 February 1992: draft Article 10 "[Implementation Committee] [Executive Council] [Functions]" and draft Article 15 "[Resolutions of Questions Regarding Interpretation and Implementation of the Convention]" (FCCC/AG13/1995/MISC.1)

- The report of the Conference of the Parties on its first session, held at Berlin from 28 March to 7 April 1995 (FCCC/CP/1995/7 and Add. 1)

- "Canadian proposal regarding effective implementation of the United Nations Framework Convention on Climate Change" submitted by the Government of Canada (FCCC/CP/1995/MISC.4)

- A review of selected non-compliance procedures, dispute resolution and implementation review procedures (FCCC/CP/1995/MISC.2)

- Submissions from delegations relating to Article 13 (A/AC.237/MISC.46)

- Consideration of the establishment of a multilateral consultative process for the resolution of questions regarding implementation (A/AC.237/59)

- The "Guidelines for the preparation of first communications by Annex I Parties" are also relevant (see A/AC.237/55, annex to decision 9/2))

12. Reports on a number of in-depth reviews of national communications of Annex I parties may also be available at the session. Additional relevant background documentation may be circulated during the session.

(c) Review of similar mechanisms

13. The AG13 may also wish to review the experience gained in the several non-compliance mechanisms, dispute resolution and implementation review procedures that have already been established in environmental treaty bodies and other relevant international forums. For example, the following procedures and mechanisms may be of particular interest to the AG13:

(a) The non-compliance procedures of the Montreal Protocol on Substances that Deplete the Ozone Layer and of the Second Protocol on Further Reduction of Sulphur Emissions to the 1979 Convention on Long-Range Transboundary Air Pollution;

(b) The Dispute Settlement Panels at the World Trade Organization and the General Agreement on Tariffs and Trade;

(c) Implementation procedures in human rights conventions; and

(d) The supervisory procedures of the International Labour Organization.

The Group may also wish to consider the work presently under way at the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Other Wastes and Their Disposal relating to the consideration of a "non-implementation/non-compliance procedure".

5. Future work of the Ad Hoc Group on Article 13

14. The AG13 may wish to consider how it should proceed in the period leading up to COP 2. In addition, the type of documentation required will need to be decided upon. In this regard, the following suggestions are put forward for consideration:

(a) The Group may request Parties to make written submissions relating to a multilateral consultative process, including submissions on a number of key issues regarding the design of such a process. These issues could be identified through a questionnaire which would be circulated by the secretariat. These inputs would be compiled and synthesized for the next AG13 meeting;

(b) The Group may request its Bureau, with the assistance of the secretariat, to draw up several design options (taking into account the outcome of the deliberations at its first session and the above-mentioned compilation), and to report its findings to the Group at its next session.

15. As stated in paragraph 1 above, the AG13 has been requested to report its findings to COP 2. The Group will need to consider, by its second session, the kind of report it wishes to provide to COP 2. If it were to concentrate on the drafting of a single design of an Article 13 process, this would influence the work programme of the Group leading up to COP 2. On the other hand, the presentation of several design options to COP 2 would give rise to a different set of implications.

16. Depending on the selection of either one of the above suggestions or of a different option, the Group could decide on its future scheduling needs. There is provision for the AG13 to meet at least twice, in conjunction with meetings of other subsidiary bodies, before COP 2. One session could be held between 26 February and 9 March 1996 and a further session is foreseen immediately prior to COP 2 (tentatively scheduled for October 1996). It is anticipated that the two sessions of the Group would meet for no more than two to three days each concurrently with meetings of the other subsidiary bodies.

6. Report on the session

17. The short length of the session may affect the extent to which a draft text of the report on the work of the session could be available at the end of the session. The AG13 may wish to adopt decisions or texts of substantive conclusions under the relevant items and sub-items of the agenda. The Rapporteur could be authorized to complete the report after the session, under the guidance of the Chairman and with the assistance of the secretariat.

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